

Motion for Relief for a Exemption From the Automatic Stay

I, Daniel Anatoly Frishberg, am requesting an exemption to the Automatic Stay in the case of Celsius Networks LLC Case number: 22-10964 (MG). In particular, I would like to be able to litigate a lawsuit filed on July 11th (before they filed for bankruptcy) due to a breach of contract, which occurred after Celsius refused to close my “earn” account, as is specifically allowed under their TOS.

By way of background, Celsius suddenly limited withdrawals/swaps and transfers on June 13th. They did not announce any form of a limitation on account closures. On July 5th 2022, I told Celsius to close my “earn” account immediately and to not pay me anymore interest from that date forward. Instead, they ignored me, and emailed me a copy and pasted scripted about limiting withdrawals etc etc. This, combined with them depositing the next interest payment on July 11th, put Celsius into a breach of contract. So pursuant to my due process rights (5th and 14th amendment), I respectfully request an exemption to the automatic stay of chapter 11 bankruptcy.

My attempt to close my “earn” account would mean that my assets/crypto should be held in the “custody” account instead of the significantly differently treated “earn” account. This is an important issue that needs to be addressed in litigation. Celsius has an incentive to not do what they rightfully should, and move my assets to “custody,” because they would like to be able to keep it to pay off their own debts. Such self-dealing at my expense is unacceptable.

Attached are just a few of the emails I have exchanged with Celsius, which indicate a pattern of intentional delay. I have called their support numerous times. Last week, when I called them on Monday, I was told that it was escalated to a higher support team, and that I should hear back by Tuesday/Wednesday of the same week. Then when I called on Thursday, they said I should hear back by Friday or so. I called again on this Monday, and they told me that basically they have no idea when I will hear back, and that they do not have a way to directly communicate with this higher up team, or even know their contact info to provide me, outside of “bumping” my ticket. I finally heard from the “Celsius Customer Care Expert” on the 28th of July (today) 23 days after I told them to close my account. I sent Celsius 6 emails between the 6th and the 28th during that time on that email chain alone. This seems to be an intentional strategy to delay, delay and delay.

In conclusion, I believe that Celsius has been abusing their chapter 11 bankruptcy protection. This is a prepetition obligation which is allowed to be fixed (in my interpretation) in the Honorable Martin Glenn "3. *The Debtors are authorized, on an interim basis and in their sole discretion, to: (a) continue operating the Cash Management System, substantially as illustrated on Exhibit 1 attached hereto; (b) honor their prepetition obligations related thereto; and (c) continue to perform Intercompany Transactions consistent with historical practice*"

This conflict has caused me a massive amount of stress and anxiety (I will not go into particular detail exactly why it is made more severe due to privacy reasons). Since the withdrawals were paused on June 13th, I have been experiencing chest pains randomly (to the point where my chest tightens up and it is hard/painful to breath). This has gotten worse since the bankruptcy filing. I have even made a doctor's appointment because of this. I have been unable to sleep, this has made things worse because of the inability to access my funds, I was unable to afford housing, and am still looking for a place to live during the upcoming school year. Celsius's actions have caused me massive emotional stress/distress. That is why I am humbly requesting the chance to argue my position in a court of law, either in my local small claims court where my lawsuit was originally filed, or in the Southern District Court of New York (ideally virtually). Since I'm a freshman in a university, I will be representing myself.

Thank you for your consideration, and I will await your decision in due course.

Best regards,

Daniel Anatoly Frishberg

DF

Date: 7/28/2022

CalifornianKing

to Celsius

Tue, Jul 5, 7:46 PM



Thank you for your response,

If a withdrawal is unavailable, please move my entire portfolio to the custody wallet. I no longer want to earn any interest or assets due to the increased risk. A risk that was not disclosed to me. I was under the impression that you would be loaning it out in overcolateralized loans. I no longer want an account at Celsius. Per your TOS it says one of the requirements is to have an active account. I do not want it. Therefore the account must be closed and a withdrawal processed. And to quote from your TOS "Subject to these Terms, for any of your Eligible Digital Assets that you elect to utilize in the Earn Service (if available to you), you have a call option on all loans made to Celsius to demand immediate, complete or partial repayment of any loan at any time through (i) transfer to a Custody Wallet, if available to you, or (ii) a complete or partial withdrawal of Eligible Digital Assets at any time. Such repayment will terminate in whole or in part your loan to Celsius and you shall no longer accrue Rewards on the amount of loans as of the time of your exercise of the call option. Celsius initiates the withdrawal process immediately following a withdrawal request when possible; however, we may require up to three (3) days after you submit your withdrawal request to process the withdrawal"

I hereby terminate my loan to you. And demand a repayment in full immediately to my custody wallet. For the record: it is 7:46 PM EST, and I Daniel Anatoly Frishberg exercise my right to recall/demand that the money be no longer loaned.

Daniel

Celsius Network

to me

Tue, Jul 5, 10:37 PM



##- Please type your reply above this line -##

Your request (#1034930) has been updated. To add additional comments, reply to this email.



Customer Care Expert (Celsius Network)

Jul 6, 2022, 02:37 UTC

Hello Danny,

We understand the reasons and urgency behind your request. However, as I mentioned earlier, Celsius announced the pause on withdrawals, Swap, and transfers between accounts (this includes internally from Earn to Custody) to attempt to stabilize our liquidity and operations.

In that same section of the Terms of Use you referenced, it also reads: Celsius and our third-party partners may experience cyber-attacks, extreme market conditions, or other operational or technical difficulties which could result in the immediate halt of transactions either temporarily or permanently. Provided that Celsius has taken reasonable commercial and operational measures to prevent such events in technical systems controlled by Celsius, Celsius is not and will not be responsible or liable for any loss or damage of any sort incurred by you as a result of such cyber-attacks, operational or technical difficulties or suspensions of transactions. Withdrawal limits based on amounts and/or frequency may apply from time to time, based on legal, regulatory, AML, and/or security considerations. Our policies and procedures may require additional security and/or compliance checks that require additional time to complete.

Our team is working diligently around the clock and we will continue to update the community and our clients as and when it becomes appropriate. I have provided our [Terms of Use](#) for your convenience.

For additional assistance, please reply to this email or simply call us at 1-866-HODL-NOW (1-866-463-5669). We are looking forward to your call!

Best regards and HODL on!

Read our FAQs and learn more from our Help Center <https://support.celsius.network/hc/en-us>



Customer Care Expert (Celsius Network)

Jul 5, 2022, 23:32 UTC

Hello Daniel,

Thank you for reaching out to the Celsius Customer Care Team. Although we are sad to see you go, we understand your desire to remove your account from the Celsius Platform.

We have had the opportunity to review your account and it appears you still have a significant balance remaining. As recently announced to the community, Celsius has paused all withdrawals, swaps, and transfers between accounts. At this time, we are not able to process an account deletion until we have restored the functionality of withdrawals.

We know this is not an easy situation for you, and we apologize for the inconvenience this may cause you. Please keep in mind that Celsius is continuing its operations, and our objective is to restore withdrawals, swaps, and transfers as quickly as possible. However, the process will take some time, and there may be delays.

We will share further information on this topic when it becomes available.

For additional assistance, please reply to this email or simply call us at 1-866-HODL-NOW (1-866-463-5669). We are looking forward to your call!

Best regards and HODL on!

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Customer Care Expert (Celsius Network)
Jul 28, 2022, 15:59 UTC

Hello Daniel,

First and foremost - apologies for the delayed reply from our side!

We understand that every piece of information is important in the current course of events, and we certainly did not intend to cause you any inconvenience or ignore your email. We do tend to respond to our user's promptly however due to the high influx of tickets our response time was affected.

The pause we implemented on the withdrawals, swaps and transfers between the accounts, as well as initiating the Chapter 11 restructuring process, is not an easy or pleasant experience for a loyal Celsiusian such as you are. We've tried all that was possible to preserve the foundation of our platform, and we believe that this process will give us the best opportunity to consummate a comprehensive restructuring transaction that will maximize value for all stakeholders, including the Celsius customers.

Please be informed that all the users claims, including yours, will be addressed through the Chapter 11 process of the U.S. Bankruptcy Code and in accordance with the procedure our Claims Agent, Stretto are there to help you and navigate you through the process. You can reach them via a dedicated call center at +1 (855) 423-1530 (U.S.) or +1 (949) 669-5873 (international) or email celsiusinquiries@stretto.com. Additionally, all relevant information on the process, including instructions on how to file a claim can be found at <https://cases.stretto.com/celsius>.

We are sorry for this kind of development, and although this can hardly be a consolation for you, we can only advise you to learn more about the process that is conducted by the U.S. Bankruptcy Code and which we suggest you follow.

The Celsius Customer Care team stays at your disposal for any additional inquiries unrelated to Chapter 11, please feel free to reach out.

Best regards!

Read our FAQs and learn more from our Help Center <https://support.celsius.network/hc/en-us>